

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Bart Daniel	Group No.: 3725
Serial No.: 09/919,247	Atty. Docket No.: 40661-23657 (013)
Filed: July 31, 2001	
For: Baling Machine with Narrow Head Wire Feeder	Examiner: Self, Shelly M.

MAIL STOP NON-FEE AMENDMENT
Commissioner of Patents and Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450

ELECTION AND TRAVERSE

HONORABLE SIR:

In response to the Election Requirement of June 20, 2003 in the above captioned case.

It is not believed that extensions of time are required beyond those, which may otherwise be provided for in documents accompanying this Amendment. However, in the event that additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned for under 37 C.F.R. § 1.136(a), and any fees required therefore are hereby authorized to be charged to our Deposit Account 08-3460.

TRAVERSE

Applicant traverses any alleged distinction made between examiner designated Groups I (claims 1 and 2), II (claims 3-9) and IV (claims 16-22). These claims are all to balers. These claims, "..... are but different definitions of the same disclosed subject matter, varying in breath or scope of definition". "Restriction therebetween should never be required" MPEP 806.03

No additional or different searching is required between examiner designated Groups I, II, and IV. The examiner's designation of Group II under Class 100 Subclass 8, and Group IV under Class 100 Subclass 29, which are both indented under Subclass 1, do not support the argument that they are related as a combination and subcombination in order to qualify for restriction requirement under MPEP 806.05(c) or (d). Class 29 is drawn to an apparatus in which "a binder encircling the material is tensioned to increase it tightness about the material and while so tensioned has spaced portions secured together." Subclass 8 is drawn to an apparatus "having means for placing a binder in position and encircling the material." The definitions of both of these Subclasses is equally true of both examiner designated Groups II and IV (and Group I) and fails to establish the existence of the combination/subcombination requirement for application of MPEP 806.05.

Examiner designated Group I cannot be understood in its relation to the present application. Subclass 76 is drawn to an apparatus which subjects the material to additional treatment including "bending the material into layers or spirally or helically disposing it in convolutions." The bulk material (e.g cotton) to be bound by the

invention disclosed and claimed in the present application is not bent into layers, disposed in convolutions, or bound spirally or helically.

Both claims 1 and 16 are generic over the group of claims 1-9 and 16-22.

The requirements for restriction under MPEP 806.05 having failed to have been established, the Applicant should not be required to bear the additional expense of three (3) divisional applications.

Applicant does not traverse the examiner's distinction between claims 10-15, ("Group III") and the rest of the claims. Claims 10 -15 cover a strap feeder for a baler. The strap feeder recited therein is a subcombination of the baler as a whole recited in the other claims.